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FISCAL IMPACT STATEMENT

LS 6068

BILL NUMBER: SB 28

NOTE PREPARED: Nov 9, 2011

BILL AMENDED:

SUBJECT: Annual Review of Unpaid Restitution Orders.

FIRST AUTHOR: Sen. Mrvan

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. *Payment Status Reports* – It requires a governmental entity that is the beneficiary of a criminal or juvenile restitution order issued by a state or federal court to annually file a payment status report with the court and with the State Board of Accounts. It provides that the payment status report must include information on the status of the restitution order, including, if applicable, information concerning any arrearage. It requires the State Board of Accounts to review the status of a restitution order if it conducts an audit of a governmental entity that is the beneficiary of the restitution order.
- B. *Enforcement of Restitution Orders* – It grants the issuing court authority to facilitate enforcement of the restitution order. It allows the: (1) Attorney General (in the case of a restitution order issued on behalf of the state); or (2) prosecuting attorney (in the case of a restitution order issued on behalf of a political subdivision); to bring an action to collect the amount owed under a restitution order that is more than one year in arrears.
- C. *Reimbursement for the Costs* – It allows the Attorney General or prosecuting attorney to retain not more than 10% of the unpaid restitution order as reimbursement for the costs of bringing the action.

Effective Date: July 1, 2012.

Explanation of State Expenditures: This bill is expected to have minimal expenditures for state agencies.

State Board of Accounts – Depending on the number of restitution orders that a court issues, the added staff

time to compile this information in a list should be minimal. Presumably, the state agency will have all court orders compiled in organized reports so that the State Board of Accounts can review reports of beneficiary entities during audits. Depending on the state agency, the State Board of Accounts bill all direct and indirect costs of the audit to the agency.

Office of the Attorney General – When restitution orders are more than one year in arrears, the governmental entity may request that the Attorney General bring an action to collect the amount owed under the unpaid restitution order. Any additional costs that are incurred will be at the discretion of the Attorney General. The office would be permitted to retain 10% of any amount collected to reimburse for reasonable expenses for bringing the action.

Explanation of State Revenues: There is no published data on how many restitution orders remain unpaid. Revenues for governmental entities who are the beneficiary of unpaid restitution orders could increase if courts will have additional authority to enforce restitution orders.

Explanation of Local Expenditures: Local entities that are beneficiaries of criminal or juvenile restitution orders would have to produce reports on the payment status of the restitution order and file a copy with the court and State Board of Accounts. By statute, the State Board of Accounts charges \$45 per day per examiner to perform the audits (IC 5-11-4-3).

The prosecuting attorney in the county would be authorized to collect a restitution order if the order is in arrears for more than one year. The office of the prosecuting attorney may retain 10% of the amount collected to reimbursement staff for reasonable expenses.

Explanation of Local Revenues: If a court has more authority to enforce restitution orders, a local entity with unpaid restitution orders may recover damages from otherwise unpaid restitution orders.

Background Information: Under current law, a court can order a person who is on probation to pay restitution to a victim of a crime that was conducted by the person on probation. The money paid by the person can be either paid to the Indiana Criminal Justice Institute (ICJI) or to the clerk of the circuit court.

The following table shows restitution collected from persons on probation to be forwarded to aggrieved parties between CY 2004 and CY 2010. This restitution was paid by all adults and juveniles to all recipients, including victims, businesses, and governmental agencies.

| Restitution (In \$M) Collected From Offenders on Probation By Calendar Year | | | | | | |
|--|--------|--------|--------|--------|--------|--------|
| 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 |
| \$6.85 | \$7.67 | \$6.85 | \$8.20 | \$9.44 | \$7.07 | \$6.52 |

State Agencies Affected: State Board of Accounts; ICJI; Office of the Attorney General.

Local Agencies Affected: Trial courts; Probation offices; Clerk of the circuit courts; Prosecuting attorneys.

Information Sources: *Indiana Probation Reports, 2004–2010* ; IC 5-11-4-3; IC 5-11-4-3.6.

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